

GOVERNMENT OF MADRAS.

Sectt. II-28-50,

Local Administration

(195 3.) Department.

Endorsement

~~XXXX~~

Memorandum

~~XXXXXX~~

No. 47389/53-1A,

Dated

5th October

195 3.

FURTHER PAPERS.

Department.	Number.	Series.	Date.

FOR MYSORE STATE

From

Sri K. Gopala Menon; B.A.,B.L.,
Commissioner,
Udipi Municipality, UDIPI.

15422

32215

To

The Secretary to Government,
Local Administration Department,
Fort St. George, MADRAS.

8-MAR 1953

Thro'

The Chairman, Municipal Council, Udipi,
and
The Inspector of Municipal Councils & Local Boards,
Madras-1.

Sir,

ps hulu

Subject:- TAX -Property - Exemption under section 83(1)(e) of the Madras District Municipalities Act, 1920 - Council's Resolution No. 17 dated 26-4-1952 - submitted.

Building bearing Municipal Door No. 3-2-24 was a new constructed building by one, Sri T.N. Kelu Nambiar, Local Ayurvedic Physician, for use as a Nursing Home. It was brought under assessment by my predecessor in Office, Sri V. Balagangadharan, and a special notice No. 471 was issued proposing to assess it on an annual rental value of Rs. 240+Rs.120. A revision petition was filed by the Assessee on 28-4-1950 and claimed exemption of the building from property tax under section 83(1)(b) of the Madras District Municipalities Act, 1920. The Commissioner heard the party on 7-7-1950 and reduced the annual rental value to Rs. 216+60. The plea of the assessee, that the building was exempt, was evidently rejected by the Commissioner.

2. Against the orders of the Commissioner, the assessee filed an appeal to the Council on 9-4-1951 and this time claimed exemption of the building from property tax under section 83(1)(e) of the aforesaid Act on the ground that it was used as a Charitable in-patient hospital for treatment of patients and that the poor and middle class people are not charged. The Appeal Committee, delegated with the powers of the Council to dispose of Taxation appeals, heard the appeal and referred his appeal to the Council, ~~probably because it~~

~~charitable hospital.~~ The Council at its meeting held on 8-1-1952 referred the appeal to one of the Councillors for report whether the building comes under section 83(1)(e) of the Madras District Municipalities Act. The Councillor submitted his report on 15-3-1952 stating that, on enquiry, he found that the poor and middle class people were not charged for treatment as represented by the appellant in his appeal petition dated 9-4-1951 and that therefore the building deserved exemption from property tax under section 83(1)(e) of the Madras District Municipalities Act. The question of exemption with the report came up for consideration of the Council at its meeting held on 29-3-1952 and on 2-4-1952. But decision was not taken. At its meeting held on 26-4-1952 the petitioner's request was granted with one of the Councillors present at the meeting not participating. The appellant has paid the tax on the building from 1-4-1950 to 30-9-1951 and the tax for the half year ending 31-3-1952 has not ~~been~~ been paid. He has not been assessed on the said building for the two half years of the current official year 1952-53. Refund of the tax paid for the year 1950-51 has to be made; but no refund of the tax paid for the half year ending 30-9-1951 has been granted so far. The amount involved is Rs. 28-10-3 per half year.

3. Neither the Commissioner who heard the revision petition nor the Councillor to whom the appeal was referred, nor the Council which granted the request of the appellant has stated anywhere that the building in question was used as a charitable hospital or dispensary. The Councillor simply stated that the building deserves exemption. The question before the Council was whether or not the building was a charitable hospital or dispensary. If it was, then the building automatically becomes exempt. Apart from the point whether a "nursing home" comes within the meaning of section 83(1)(e), it is not managed by any registered body but by its owner as the Ayurvedic native physician. There

hospital who may treat poor and middle class people free of charges. But they have not been exempted from taxation. In fact the petition for exemption by a Registered Medical Practitioner under similar circumstances has been rejected by the Council. As such, I do not consider that the building in question used as "nursing home" is a charitable hospital or dispensary coming within the meaning of section 83(1)(e) of the Madras District Municipalities Act, 1920.

4. If the Council wanted to favour Sri T.N. Kelu Nambiar on any other ground it could have done under section 117 of the Madras District Municipalities Act with the previous sanction of the Collector who has been delegated with powers of the State Government. Even in the case of properties of the Depressed Class Mission, the Government in their Memorandum No. 19272-2.A., L.A., dated 4-7-1952 had advised the Council to exempt them from taxation in which case the Government sanction could be presumed. In this sense, I am of opinion that the Resolution No. 17 dated 26-4-1952 exempting the "nursing home" of Sri T.N. Kelu Nambiar is illegal and ultra vires.

5. I had to peruse the papers and examine the whole question when I had to prepare answers to interpellations on this subject put by one of the Councillors to be answered at the meeting convened to be held on 28-2-1953. I consider that this is a case which demands action under section 36 of the Madras District Municipalities Act. I solicit orders or advice in the matter.

K.opalram
3.3.53
Commissioner.

82
3.3.53.

Forwarded

I fully endorse the opinion of the Commissioner. The building used for the "nursing home" is not a charitable hospital. No one, as far as I know, is treated free in the nursing home. Maybe that the poor

admission there. In my opinion, the council has no power to grant exemption under section 83(1)(e). All that the council can do is to declare the building as used for charitable hospital or dispensary, if it really does. Exemption from payment of taxes can be granted by the council only under section 117

W. Innes
chairman

PRESENT.

Sri A.B. Krishna Raj, Vice-Chairman.
Sri S. Devadasa Bhat.
Sri A. Manjunatha Rao.
Sri K. Kamalaksha Pai, B.Com.
Sri K. Vasudeva Prabhu, B.A., B.T.
Sri A. Shambu Shetty.
Sri K. Vasudeva Nayak.

* * * * *

17. Appeal petition dated 9-4-1951 of Sri T.N. Kelu Nambiar, Registered Ayurvedic Physician, Udipi, against the levy of property tax on newly constructed building No. 3-2-24 covered by assessment No. 3457 of Ambalpady Ward requesting the Council to exempt the same from property tax under section 83(1)(e) of the Madras District Municipalities Act, 1920, as amended and appeal Committee's resolution dated 10-1-1952 referring the paper to the Council for disposal.

Also Municipal Council's Resolution No. 10 dated 28-1-51 resolving to refer the paper to Sri T. Ramesh Pai, to report whether the building covered by assessment No. 3457 comes under section 83(1)(e) and report dated 15-3-1952 of Sri T.R.U. Pai recommending to the Council to exempt the same.

Also connected papers in file C.No. 425/50-51 and also Municipal Council's Resolution No. 24 dated 29-3-1952 and 20 dated 12-4-1952. (none).

RESOLUTION:

"Read Report of Sri T. Ramesh U. Pai. The petitioner's request is granted. Sri A. Manjunatha Rao not participated."

* * * * *

(Sd.) A.B. Krishna Raj,
Vice-Chairman,
Municipal Council, Udipi

/TRUE EXTRACT/


Commissioner, 3.3.53
Udipi Municipality, Udipi.

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ry. - Enclt. N. No. 15422/53 dtd 11.3.1953¹ of the
Inspector of Municipal Councils & Local Boards, Madras

On my enquiry, I understand that no records were maintained as all the patients were treated free. Their diet and some costly medicines were met by the patients themselves. No charges are levied for the beds and if any rich man offers any moneys for Medical advice it is not refused. From the poor and middle class ~~peoples~~ even that is not accepted.

Municipal Office, Udipi,

Dated 29-4-1953.

32215

K. Kupabraman
11.5.53
Commissioner.

11/5/53

To

The Inspector of Municipal Councils & Local Boards
Madras.

N.S.O.M.O. No. 700/53.

Resubmitted.

to be submitted 9

2. A copy of the report dated 15-3-1952 of Sri T. Ramesh
Pai is submitted as called for in the Inspector's endorsement
N.Dis. 32215/53 dated 18-5-1953.

Wm

36206

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Municipal Office, Udipi,

Dated 28-5-1953.

K. Lalrammy
Commissioner. 29.5.
29/5/53

To

The Inspector of Municipal Councils & Local Boards,

M A D R A S.

Bks. 29, 5.

Copy of Letter dated 15th March, 1952, from ^{Sd} T. Ramesh U. Pai,
Member, Senate of the Madras ^{University} Municipal Councillor,
Mukund Nivas, UDIPI.

to The Chairman, Municipal Council, Udipi.

ir,

Tax Property - half year ending 1950-51
Asst.No. 3457 exemption under sec. 83(1)(e)
Report submitted.

Ref:- Appeal petition dated 9-4-51 of Sri T.H.
Kalu Nambiar, - M.C. Resolution No. 10
dated 23-1-1952.

With reference to the above, on enquiry, I find that the poor and middle class people are not charged for the treatment as represented by the appellant in his appeal petition dated 9-4-1951. The building therefore deserves exemption from property tax under Sec. 83(1)(e) of the M.D.M. Act.

Yours faithfully,

(Sd.) T. Ramesh U. Pai,
MUNICIPAL COUNCILLOR.

/True Copy/

S. Sopalasingam
Commissioner, 29.5.53.

From

Sri K.G. Menon, I.C.S.,
Inspector of M.L.Cls. & Local Boards, Madras-1.

To

The Secretary to Government,
Local Administration Department, Madras-

L.Dis.36206/53, dated 24-9-53.

...

Sir,

SUB: TAX - Property - Udipi Municipal Council - Door No.
3-2-24 - Exemption under Sec. 83 of the Madras District
Municipalities Act -

...

I forward herewith the letter Roc. No. B2. 4069/50,
dated 3-3-53 of the Municipal Commissioner Udipi with its enclo-
sures, a copy of his Endorsement dated 11-5-53 and a copy of the
report dated 15-5-53 of Sri T. Ramesh Pai, Municipal Councillor.

The building in question may be considered one exempt
from property tax under sub-section (e) of Sec. 83(1) of the
Madras District Municipalities Act, as it is reported that the
poor ^{class} ~~clear~~ people are treated therein free of charge.

For Inspector.

Sub: Tax - Property - Udupi
M.C. - Nursing Home
of Sri T.N. Kellur
- Exemption.

From the Commr., Udupi M.C.
Memo. 52- 4069/50 dy 3.7

From the Insp. Gen. ds & R.
No. L. ds 36206/53 dy 24.9.53

Memo 47389/53-1A dy 5.7.53
F.D.

The Commr., Udupi
is informed that Charitable
hospitals and dispensaries
which are exempt from
~~assessment to~~ ~~tax~~ under Section 83A
of the M.D. M. Act, 1920, do
not become liable to ~~tax~~
by the mere fact that charges
are ~~collected~~ provided
such charges are collected
from patients who can afford
to pay ~~the charges~~ and
poor patients are given free
treatment. Though the
nursing home of Sri T.N.
Kellur is that of a
private individual, yet
~~there is~~ ^{have} no objection to
exempting the ^{said} nursing
home from ~~tax~~ ^{assessment} under

provisions of Section 83(1)(c)
of the M.D. M. Act, 1920 since
it is reported that poor
patients are treated free
in the nursing home.

U. G.
30853

Mr
3 x 53

1. 53

Re: The draft above for
the ~~the~~ Govt memo no. 2277/
50-3A dt 6.5.50 and the
recommendations of the dep.
govt. do + h. do. for
approval.

2
30810 G
30853

Mr
3 x 53 f